

Tiverton Planning Board
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NOTICE OF ADVISORY OPINION

To: Tiverton Town Council

From: Tiverton Planning Board

Subject: Advisory Opinion on the Short-term Rental Ordinance

Cc: Todd Romano, Esq.
Planning Office
Town Administrator

On September 29, 2022, the Tiverton Planning Board reviewed and discussed the proposed Short-term Rental (STR) Ordinance (herein after referred to as "the ordinance"). The Planning Board discussed the need to regulate short-term rentals.

After discussion and input from the public, the Planning Board finds that the proposed ordinance is inconsistent with the Comprehensive Plan. The Planning Board came to this conclusion after thoughtful discussion with several members of the public who raised specific concerns. This memo is a compilation of information presented to the Planning Board during the public discussion related to the issuance of an advisory opinion on the draft ordinance.

Consistency with the Comprehensive Plan and General Purposes of Zoning

The Planning Board finds that the STR ordinance as currently proposed is not consistent with the comprehensive plan or the general purposes of zoning.

The Planning Board finds the following issue related to consistency with the Comprehensive Plan:

- The current ordinance is not consistent with the Natural and Cultural Resources chapter, policy #4 "Protect the environment from potential sources of contamination". The ordinance needs to include language related to a STRs current OWTS for purposes of protecting the environment.
- The Planning Board finds that STRs do not diversify the town's housing types and options and do not promote affordable housing options. Converting existing housing stock to STR status removes housing options for long-term occupation. The Planning Board recognizes that this is an issue with the overall subject of STRs and not specific to this ordinance but did feel it was important to note that the conversion of STRs in the community is inconsistent with many of the housing goals outlined in the town's comprehensive plan

The Planning Board finds the following issues related to consistency with the general purposes of zoning:

- The ordinance as drafted does not promote the public health, safety, and general welfare.
- STRs do not provide for orderly growth and development.
- STRs do not promote a balance of housing choices for all income levels and groups. They remove housing stock for long-term occupancy and reduce the balance of housing choices available in Tiverton.
- The lack of requirements for inspection do not promote safety from fire, flood, and other natural or unnatural disasters.
- The lack of requirements related to noise and OWTS capacity do not provide for the control, protection and/or abatement of air, water, groundwater, and noise pollution and soil erosion and sedimentation.

Below is a summary of comments on specific sections of the draft ordinance and suggested language is identified in *italics*.

Enforcement Approach

Consider the possibility of regulating short-term rentals through an ordinance that requires a registry. The following issues were discussed related to this item.

- Using a special use permit places a “commercial designation” on the STR property
- Typically, special use permits run with the land and not the individual to who they are granted. This would make them approved in perpetuity on the property, regardless of ownership. We understand there may be a way to resolve this with a special use permit. We would urge you to address that issue however most effective.

Definitions

The current ordinance lacks a concise definition for the following items:

- Bedroom
- Local representative
- Registrar

Occupancy

Limiting the occupancy to 150% of sleeping capacity ignores the permitted number of bedrooms which are allowed by onsite wastewater treatment systems (OWTS). We suggest the language be changed in a manner consistent with the following:

The maximum occupancy for the dwelling unit shall be two (2) persons per bedroom. The number of bedrooms shall not exceed the number of bedrooms supported by the design load of the property's onsite wastewater treatment system (septic system).

Parking

The ordinance as currently drafted lacks clear parking restrictions that reflect the off-street parking spaces required for STRs. We recommend including the following language:

One off-street parking space for each bedroom shall be provided on the same lot on which the short-term rental is located.

Designation of Responsible Person/Local Representative

The ordinance requires that the owner of an STR must designate an individual residing or a property management company operating within 25 miles of the STR. We believe 25 miles is too far a distance to respond quickly in the case of an emergency.

- We recommend that Tiverton's ordinance follow several others in Rhode Island in requiring that the designated responsible person or local representative live within Tiverton.

Nuisances

The current ordinance references Section (7)(D). This should be checked as there is no such section in the corresponding code.

Inspections

The current draft does not require the building official or the fire marshal to inspect STR units.

- We recommend that this ordinance be updated to reflect the requirement of an inspection by both the building official and the fire marshal. We offer the following language based on Portsmouth's ordinance.

At the time of registration, an STR shall be inspected by the Building Official and the Fire Marshall to determine the occupancy limit and to determine if smoke and CO detectors are installed in compliance with the State Fire Code for dwelling units and to determine the number of off-street parking spaces. This shall occur prior to the Building Official issuing an STR permit stating the maximum occupancy for the dwelling unit.

Miscellaneous

- The ordinance should prohibit the issuance of a special event permit or sound variance permit for any STR.

In summary, the Planning Board respectfully requests that the language and comments provided above are implemented by the Town Council as they consider the adoption of an STR ordinance. The Planning Board would support the Town Council taking additional time to review other ordinances in Rhode Island (Westerly, Middletown, Portsmouth, and Warren, and Jamestown once completed).